



CITY OF PORTLAND, OREGON



Bureau of Police

Ted Wheeler, Mayor

Danielle M. Outlaw, Chief of Police

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Integrity • Compassion • Accountability • Respect • Excellence • Service

Directive 210.22, Exempt Employee Time Tracking and Management Leave Guidelines (formerly, “Non-Sworn Non-Represented, FLSA-Exempt Members and Lieutenants Time Tracking”) Executive Summary

Introduction

Directive 210.22, Non-Sworn Non-Represented, FLSA-Exempt members and Lieutenants Time Tracking, was first developed in 2007 and underwent multiple revisions up until 2016. This directive still applies to Portland Police Bureau (PPB) members who are identified in exempt classifications, and still requires members to track their hours worked. Due to the substantial revision, PPB re-titled the directive to reflect both the time tracking aspect as well as the new sections on management leave, which correspond with the City of Portland’s Human Resources Administrative Rule 8.03.

Public Comments

The Bureau received numerous feedback from the two comment periods conducted in June and October of 2018. The theme amongst the majority of the feedback was that the directive was not necessary. Commenters remarked on the inefficiency of having multiple and redundant tracking systems and how tying a management leave award to an employee’s annual evaluation could lead to inequitable results.

Time tracking through UDARs and Outlook

Many commenters questioned the need to track their time in multiple systems. The directive is not intended to create more work for members or require members to prove their work activity, but designed to assist leaders with understanding their employees’ schedules. PPB’s leadership believes it is necessary to document work hours and activity as a way to ensure all members are held accountable as City employees.

Management leave

Some commenters criticized tying management leave awards to annual performance evaluations. Commenters noted that if the evaluation is conducted late in a year, some may not benefit from management leave due to conflicts between taking time off and work priorities. To remedy this concern, PPB has decided to 1) have supervisors request management leave for their employees at the start of the year in January, and 2) coordinate with the Fiscal Division to allow members to restore used vacation leave with management leave upon request. The Bureau believes these guidelines will help alleviate Bureau member concerns and make awarding management leave equitable.

We thank every individual who took the time to provide feedback on this directive. All comments received during both review periods are attached at the end of this document. We have removed all personal information to protect the privacy of commenters.

The Bureau's Revised Policy

The Policy Development Team revised this directive to reflect the changes of how the Bureau tracks time and work activity, and to address management leave procedures. The Bureau no longer utilizes Excel to document hours worked, excess hours, sick time used, vacation time used, etc., but instead uses a web based application to document, record, and archive changes to an employee's daily schedule. The updated section 1 outlines how members will input their time and the supervisor's role in reviewing them. The inclusion of management leave guidelines in section 2 addresses the responsibilities of leaders involved beginning with the initiation of requests to the approval from the Chief of Police.

The Bureau believes that the revised directive provides clearer guidance to its members; however, any suggestions to further improve this policy are welcome during its next review.

Directive 210.22, Exempt Employee Time Tracking and Management Leave Guidelines, will go into effect on July 1, 2019.

Published on 5/31/19

210.22 Exempt Employee Time Tracking and Management Leave Guidelines

Refer:

- HRAR 8.03 Hours of Work, Overtime Compensation & Management Leave: FLSA Exempt Employees
- DIR 60.60, Standard Operating Procedure
- DIR 210.21, Leaves from Service

Policy:

1. Consistent with principles of public accountability, the Bureau expects all non-sworn non-represented and Fair Labor Standards Act (FLSA) exempt, and PPCOA represented Police Bureau members to account for their work time and activities by tracking time.
2. In an effort to fulfill its goal of conserving and streamlining business processes, all portions of the time tracking process should be kept digitally and not printed, where feasible.
3. The intent of management leave is to recognize exceptional additional individual efforts, performance, and achievements, including but not limited to beyond the standard workweek.

Procedure:

1. Exempt Employee Time Tracking.
 - 1.1. Member Responsibilities.
 - 1.1.1. Each exempt employee must keep track of their extra time worked and partial day absences.
 - 1.1.1.1. Per City Human Resources Administrative Rule 8.03, absences under three hours will not be deducted from an employee's leave balance. However, all partial day absences must still be pre-approved and submitted through the Uniform Daily Assignment Roster (UDAR).
 - 1.1.2. All extra time worked will be tracked using the Exempt Employee Tracking system in the UDAR.
 - 1.1.3. Members shall either enter partial day absences of any type of leave through the daily UDAR, as they would with full day absences, or request approval using the Request/Rescind Personal Time Off (PTO) function.
 - 1.1.4. Members shall ensure UDAR entries are correct each month.
 - 1.1.5. Along with tracking extra time worked and absences, members shall use their Microsoft Outlook Calendar to track work events, including meetings.
 - 1.1.5.1. Members shall send an Outlook Calendar sharing request to their supervisor.
 - 1.2. Supervisor Responsibilities.
 - 1.2.1. Within the first ten business days of each new month, supervisors shall review members' exempt employee calendars digitally.

- 1.2.1.1. Supervisors may review a member's Outlook Calendar for discrepancies. If any discrepancies are discovered, supervisors shall immediately discuss the discrepancy with the member and take appropriate corrective action.
2. Management Leave.
 - 2.1. General Guidelines.
 - 2.1.1. Supervisors may request management leave for their employees in January of that calendar year.
 - 2.1.1.1. Members awarded management leave, may request to the Fiscal Division to restore used vacation leave with management leave.
 - 2.1.2. Management leave expires at the end of the calendar year in which it is awarded.
 - 2.2. Supervisory Responsibilities.
 - 2.2.1. Supervisors who submit requests are required to complete the management leave award form with the number of hours requested and rationale justifying the award. The rationale may include:
 - 2.2.1.1. A description of the quality of the member's work;
 - 2.2.1.2. A demonstrable willingness to undertake new or additional projects or to develop new areas of subject matter expertise;
 - 2.2.1.3. Continuous provision of exceptional service to the office, despite reaching the maximum in a salary range;
 - 2.2.1.4. Working in excess of the assigned duty hours (i.e., 40 hours per week); and/or
 - 2.2.1.5. Other recognizable contributions to the Bureau and/or the City.
 - 2.2.1.6. Members do not need to satisfy all of the criteria to be awarded management leave.
 - 2.2.2. Supervisors shall submit the award form and supporting documentation (e.g., timesheets, Outlook Calendar, member's list of accomplishments) to their Assistant Chief (AC) in charge for review and approval by the Chief of Police.
 - 2.3. Chief's Office Responsibilities.
 - 2.3.1. The Chief of Police shall review each management leave request and take into account only the criteria listed above.
 - 2.3.2. The Chief of Police shall complete their review within two weeks of receiving the request forms.
 - 2.3.3. After completing the review, the Chief of Police shall, through their staff, submit the approved forms to the Fiscal Payroll Manager.
 - 2.4. Fiscal Payroll Manager Responsibilities.
 - 2.4.1. Review approved forms for required information.
 - 2.4.2. Provide a digital copy of the approved form to the Bureau of Human Resources Central Payroll and Fiscal Personnel Records office.
 - 2.4.3. Provide the original documentation to the member.
 - 2.4.4. Upon request by an employee, adjust their used vacation leave with management leave.

History:

- Originating Directive Date: 01/01/07
- Last Revision Signed: 05/31/19
 - Effective Date: 07/01/19
- Next Review Date: 07/01/21

210.22, ~~Non-Sworn Non-Represented, FLSA- Exempt Members and Lieutenants~~ Employee Time Tracking and Management Leave Guidelines

Refer:

- ~~Directive~~ HRAR 8.03 Hours of Work, Overtime Compensation & Management Leave: FLSA Exempt Employees
- DIR 60.60, Standard Operating Procedure
- ~~Directive~~ DIR 210.21, Leaves from Service

Policy:

1. Consistent with principles of public accountability, the Bureau expects all non-sworn non-represented; and Fair Labor Standards Act (FLSA) exempt, and PPCOA represented Police Bureau members, ~~in addition to members at the rank of lieutenants,~~ shall to account for their work time and activities by tracking time.
2. In an effort to fulfill its goal of conserving and streamlining business processes, all portions of the time tracking process should be kept digitally and not printed, where feasible.
3. The intent of management leave is to recognize exceptional additional individual efforts, performance, and achievements, including but not limited to beyond the standard workweek.
1. ~~The Chief's Office will coordinate with the Fiscal Services Division, and the Personnel Division, to approve the tracking and/or calendar format members will use to account for work time and activities.~~

Procedure:

~~1. Tracking Time:~~

- 1.1. ~~Members will maintain a system to track work hours and activities that will be kept for future reference. Tracking of time will be the responsibility of each member, with each member solely and personally accountable for their own record.~~
- 1.2. ~~Time off requires preapproval from a member's supervisor (to include vacations, holidays, sick time, management leave, etc.). "Partial Day Absences" may be granted occasionally and only with approval from your supervisor as allowed by City Rule; hour for hour adjusted time off will not be permitted. A phone call, text, or email request from a member to his/her supervisor with a response will suffice as permission.~~
- 1.3. ~~Each month members will complete the following documents and submit to his/her supervisor no later than the fifteenth (15th) of the following month:~~
 - 1.3.1. ~~Outlook calendar with all major appointments and meetings (week view).~~
 - 1.3.2. ~~Excel monthly time and balance sheet, which will track the following:~~
 - 1.3.2.1. ~~Actual work hours each day (e.g. 0700-1500).~~
 - 1.3.2.2. ~~Number of hours worked (e.g. 8)~~
 - 1.3.2.3. ~~Excess hours worked including the reason~~
 - 1.3.2.4. ~~Adjusted days off~~
 - 1.3.2.5. ~~Balance of excess hours~~
 - 1.3.2.6. ~~Sick time used~~

- ~~1.3.2.7. Vacation time used~~
- ~~1.3.2.8. Holiday time used~~
- ~~1.3.2.9. Management Leave~~
- ~~1.3.2.10. Partial Day Absences~~

Procedure:

1. Exempt Employee Time Tracking.

1.1. Member Responsibilities.

1.1.1. Each exempt employee must keep track of their extra time worked and partial day absences.

1.1.1.1. Per City Human Resources Administrative Rule 8.03, absences under three hours will not be deducted from an employee's leave balance. However, all partial day absences must still be pre-approved and submitted through the Uniform Daily Assignment Roster (UDAR).

1.1.2. All extra time worked will be tracked using the Exempt Employee Tracking system in the UDAR.

1.1.3. Members shall either enter partial day absences of any type of leave through the daily UDAR, as they would with full day absences, or request approval using the Request/Rescind Personal Time Off (PTO) function.

1.1.4. Members shall ensure UDAR entries are correct each month.

1.1.5. Along with tracking extra time worked and absences, members shall use their Microsoft Outlook Calendar to track work events, including meetings.

1.1.5.1. Members shall send an Outlook Calendar sharing request to their supervisor.

~~1.1.1.2.~~ Supervisor Responsibilities:

~~1.2.1.~~ Each supervisor will Within the first ten business days of each new month, supervisors shall review members' exempt employee calendars digitally.

~~1.2.1.1.~~ Supervisors may review a member's Outlook Calendar for discrepancies. If any discrepancies are discovered, supervisors shall immediately discuss the discrepancy with the member and take appropriate corrective action.

2. Management Leave.

2.1. General Guidelines.

2.1.1. Supervisors may request management leave for their employees in January of that calendar year.

2.1.1.1. Members awarded management leave, may request to the Fiscal Division to restore used vacation leave with management leave.

2.1.2. Management leave expires at the end of the calendar year in which it is awarded.

2.2. Supervisory Responsibilities.

- 2.2.1. Supervisors who submit requests are required to complete the management leave award form with the number of hours requested and rationale justifying the award. The rationale may include:
- 2.2.1.1. A description of the quality of the member's work;
 - 2.2.1.2. A demonstrable willingness to undertake new or additional projects or to develop new areas of subject matter expertise;
 - 2.2.1.3. Continuous provision of exceptional service to the office, despite reaching the maximum in a salary range;
 - 2.2.1.4. Working in excess of the assigned duty hours (i.e., 40 hours per week); and/or
 - 2.2.1.5. Other recognizable contributions to the Bureau and/or the City.
 - 2.2.1.6. Members do not need to satisfy all of the criteria to be awarded management leave.
- 2.2.2. Supervisors shall submit the award form and supporting documentation for completion before submitting (e.g., timesheets, Outlook Calendar, member's list of accomplishments) to their Assistant Chief (AC) in charge for review and approval by the Chief of Police.

2.3. Chief's Office Responsibilities.

- 2.3.1. The Chief of Police shall review each management leave request and take into account only the criteria listed above.
- 2.3.2. The Chief of Police shall complete their review within two weeks of receiving the request forms.
- 2.3.3. After completing the review, the Chief of Police shall, through their staff, submit the chain of command approved forms to the Responsibility Unit Fiscal Payroll Manager.

2.4. Responsibility Unit Fiscal Payroll Manager Responsibilities:—

~~1.4. Responsibility Unit Managers will review member documentation for completion. Each Responsibility Unit will have established Standard Operating Procedure on timekeeping responsibilities. Each Responsibility Unit will maintain copies of approved requests and time keeping documentation for a period seven (7) years to comply with federal statute of limitations.~~

- 2.4.1. Review approved forms for required information.
- 2.4.2. Provide a digital copy of the approved form to the Bureau of Human Resources Central Payroll and Fiscal Personnel Records office.
- 2.4.3. Provide the original documentation to the member.
- 2.4.4. Upon request by an employee, adjust their used vacation leave with management leave.

Directive 210.22 Feedback

1st Universal Review: 6/1/18 - 6/16/18

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, June 01, 2018 1:36:40 AM
Last Modified: Friday, June 01, 2018 1:37:01 AM
Time Spent: 00:00:20

Page 1

Q1 Please provide feedback for this directive

There needs to be more oversight to prevent time abuse. Trusting officers is not enough.

Q2 Contact Information (optional)

Respondent skipped this question

#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, June 01, 2018 7:55:42 AM
Last Modified: Friday, June 01, 2018 8:00:22 AM
Time Spent: 00:04:40

Page 1

Q1 Please provide feedback for this directive

This directive serves no purpose. It actually wastes time and punishes employees for working by forcing them to prove they are working. Non-rep time does not need to be tracked in multiple systems to prove we are "working" (ie, Excel, UDAR, SAP Outlook)- if there is an employee whose work product is actually in question than the RU manager should a) know this, and b) take appropriate HR actions c) not require all other employees to be punished or assumed to 'not be working so prove to me otherwise" d) no other City Bureau or non-rep group is required to do this. It is wasteful and does not enhance legitimacy in the worker. If it did, perhaps BHR would require ALL city employees to do this practice. The HRAR clearly covers expectations for non-reps, this should suffice for non-reps at PPB.

Q2 Contact Information (optional)

Name
Email Address
Phone Number

#3

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, June 01, 2018 8:15:56 AM
Last Modified: Friday, June 01, 2018 8:18:17 AM
Time Spent: 00:02:21

Page 1

Q1 Please provide feedback for this directive

I believe the tracking in both outlook at an excel spreadsheet is redundant and cumbersome. Tracking in the UDAR system would be optimal as it is quicker and easier to maintain. I believe that is why they created the "exempt employee tracking" Then the reports can be easily printed out and given to the supervisor.

Q2 Contact Information (optional)

Respondent skipped this question

#4

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, June 01, 2018 12:07:08 PM
Last Modified: Friday, June 01, 2018 12:32:54 PM
Time Spent: 00:25:46

Page 1

Q1 Please provide feedback for this directive

For the sake of transparency and accountability, Procedure 1.1 is effectively maintained by the UDAR time tracking system. Unless I am otherwise absent, which would be noted as sick/vacation leave, it can be reasonably expected that my shift (as present in UDAR) is when I was at work.

Beyond that, if there *is* an issue with my presence at work, it would fall to my manager to address that with me. Poor work performance is the manager's duty to address; punitive time-tracking measures imposed upon all responsible, effective, efficient employees only serve to demoralize them and insult their work ethic.

Section 1.3 of the 'Procedure' section, in its entirety, is redundant and a waste of time.

It is my understanding that as a nonrep, salaried employee, I work 40 hours per week and am responsible for the body of work associated with my position. If the City (and more specifically this bureau, since other bureaus do not require these measures) trusts employed adults to actually be responsible adults, imposing such meticulous time-tracking is unnecessary. If there is a performance issue of an employee not meeting their job duties and responsibilities, that is a separate issue, and only at that point should such stringent time keeping responsibilities be imposed.

Ultimately, if this issue is TRULY important, at least make the process more efficient and just make all bureau employees positive time entry employees (like police officers and other repped positions, who have to make note of every single shift adjustment and start/stop time in UDAR). Outside "shadow" tracking systems should not be encouraged, and this directive effectively does just that - in two separate forms.

Please, stop the madness. Allow reason and rationality to prevail, and stop requiring time tracking in these ways.

Q2 Contact Information (optional)

Name

Email Address

Phone Number

#5

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, June 01, 2018 1:11:47 PM
Last Modified: Friday, June 01, 2018 1:12:39 PM
Time Spent: 00:00:51

Page 1

Q1 Please provide feedback for this directive

The Excel sheet should be eliminated, and replaced with a statement that hours should be tracked in the approved timekeeping software.

Q2 Contact Information (optional)

Respondent skipped this question

#6

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Sunday, June 03, 2018 6:32:02 PM
Last Modified: Sunday, June 03, 2018 6:32:52 PM
Time Spent: 00:00:49

Page 1

Q1 Please provide feedback for this directive

A clarification of 'activities' would be helpful.

Q2 Contact Information (optional)

Respondent skipped this question

#7

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, June 04, 2018 2:20:47 AM
Last Modified: Monday, June 04, 2018 2:21:05 AM
Time Spent: 00:00:17

Page 1

Q1 Please provide feedback for this directive

good

Q2 Contact Information (optional)

Name

Email Address

#8

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, June 04, 2018 6:30:00 AM
Last Modified: Monday, June 04, 2018 6:32:45 AM
Time Spent: 00:02:44

Page 1

Q1 Please provide feedback for this directive

Appears onerous and unnecessary, especially for personnel who are not eligible for overtime. Supervisors and managers should know if their direct reports are at work when they're supposed to be and completing the work assigned to them. Unless there is a concern regarding widespread abuse of the current system, I don't see why this is worth the hassle.

Q2 Contact Information (optional)

Respondent skipped this question

#9

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, June 08, 2018 10:55:20 AM
Last Modified: Friday, June 08, 2018 11:06:26 AM
Time Spent: 00:11:06

Page 1

Q1 Please provide feedback for this directive

Tracking work output by time is an out of date way of tracking work output. If the bureau wants to attract and retain peak performing civilian employees, it needs to start measuring and evaluating work product output rather than hours. As an example, because I have a high proficiency in certain programs, I am able to complete project and tasks in a shorter amount of time than coworkers that don't use those tools. Under this directive and the philosophy it represents, there is no incentive for employees to develop such skills or efficiencies. It is an out of date work model and talented potential staff, will be put off by that.

A more modern approach would be to measure output and performance. There are many examples of how to implement these models successfully and encourage staff to become higher producing and more efficient rather than relying on old systems and tools.

Q2 Contact Information (optional)

Name

Email Address

Phone Number

#1

2nd Universal Review: 10/1/18 - 10/31/18

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, October 01, 2018 9:45:23 AM
Last Modified: Monday, October 01, 2018 9:54:37 AM
Time Spent: 00:09:13
IP Address: 74.120.152.143

Page 1

Q1 Please provide feedback for this directive

Regarding management leave awards being tied to the annual evaluation, this does not create a balanced situation for people receiving their annual evaluation at the beginning of the year versus receiving their annual evaluation at the end of the year. It will be harder for someone awarded 20 hours with a working anniversary date of December 5th to use their management leave than someone with a working anniversary date of February 5th. Managers might be inclined to award less management leave for the hours/quality of work to people at the end of the year so they don't "lose it" versus people who have earlier anniversary dates where they'll have plenty of time to take the hours. Even if managers approve the employees with a later anniversary date to take their full management leave, it creates the additional burden of using leave while trying to get work done before the expiration date. It seems like some adjustment of when management leave is awarded or when it expires is needed to create a more equitable situation based on work anniversary/annual review dates. Thanks!

Q2 Contact Information (optional)

Name

Email Address

Phone Number

#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, October 01, 2018 10:09:08 AM
Last Modified: Monday, October 01, 2018 10:11:18 AM
Time Spent: 00:02:10
IP Address: 74.120.152.144

Page 1

Q1 Please provide feedback for this directive

Having to track one's time in two different, unrelated electronic platforms is a complete waste of time and counter-productive.

Q2 Contact Information (optional)

Respondent skipped this question

#3

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, October 01, 2018 12:07:07 PM
Last Modified: Monday, October 01, 2018 12:14:43 PM
Time Spent: 00:07:36
IP Address: 74.120.152.143

Page 1

Q1 Please provide feedback for this directive

Section 2.2.1 (Member responsibilities) can be read that requesting time off (taking management leave that has been awarded) and requesting management leave (asking for leave to be added to an employee's leave banks) are the same thing.

It might be helpful to move 2.2.1 to the end of the Member Responsibilities section. Start with how employees may ask for management leave to be added to their leave banks, go through all the steps that are currently outlined in 2.2.2 and its subsections, then outline how an employee may ask to use that leave once it's available. "As with any other discretionary leave (ex. Vacation or Comp), members must request time off from their supervisor in order to take management leave."

Q2 Contact Information (optional)

Respondent skipped this question

#4

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, October 01, 2018 12:37:26 PM
Last Modified: Monday, October 01, 2018 12:54:59 PM
Time Spent: 00:17:32
IP Address: 74.120.152.143

Page 1

Q1 Please provide feedback for this directive

Perhaps the City/Bureau should create a union for the professional ranks of non-sworn non-reps to be part of, and many of the apparent concerns expressed and perceived punitive measures of this proposed directive would be unnecessary, as well as assuring non-sworn nor-reps are fully compensated for their hours worked.

Q2 Contact Information (optional)

Respondent skipped this question

#5

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, October 02, 2018 6:32:44 AM
Last Modified: Tuesday, October 02, 2018 6:37:25 AM
Time Spent: 00:04:40
IP Address: 74.120.152.118

Page 1

Q1 Please provide feedback for this directive

This directive is totally counter productive. Exempt employees are just that, exempt. Whether we work 35 hours or 80 hours in a week, our pay is the same. And since time is already being tracked in UDAR, why would the bureau require redundancy? How much time is wasted by exempt employees ensuring their times all match? Supervisors should know where their people are and what work hours they are putting forth for the bureau. For once, allow....no REQUIRE supervisors to supervise instead of perpetuating an environment of "lets pass the buck."

Q2 Contact Information (optional)

Respondent skipped this question

#6

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, October 02, 2018 7:49:05 AM
Last Modified: Tuesday, October 02, 2018 7:53:50 AM
Time Spent: 00:04:44
IP Address: 74.120.152.117

Page 1

Q1 Please provide feedback for this directive

Hello, I would ask that prior to implementation of directive, that Mark Amberg is fully consulted as I have had conversations with him in the past regarding the requirement of City directing flsa exempt salaried employees to keep daily hour logging of their time. Oregon BOLI also has cautioned that if we require the tracking of daily hourly work, the City may run the risk of being forced to pay overtime to FLSA exempt employees.

It may be more appropriate to have language that flsa exempt employees are expected to provide adequate evidence of their body of work as expected by their supervisor and failure to do so will result in a performance evaluation.

Classifying Exempt Employees

*Updated info on the Salary Test [June 2018]

When an employer classifies an employee as exempt from minimum wage and overtime, it is up to the employer to establish that the employee meets the criteria for exempt status. There are three categories of "white collar" employees that may qualify for exempt status, executives (supervisors), administrative managers and professional employees. Both federal and state regulations require that employees must satisfy all of the duties tests and also be paid a genuine salary to be classified as exempt employees.

The Duties Tests

Exempt executives (supervisors) must satisfy the following duties tests:

- Primarily manage a distinct unit or subdivision within the organization.
- Spend most of the workweek performing management duties. This generally means more than 50 percent of the worktime, however, other factors might support exempt status if less than 50 percent of worktime is spent in management. Other factors could include: the employee is paid a significantly higher salary than is paid to nonexempt staff; the employee makes frequent management decisions; the employee is free from direct supervision.
- Supervise two or more full-time employees (or the equivalent of two or more).
- Have hiring or firing authority or, if not full authority, their recommendations are given particular weight.
- Customarily and regularly exercise authority to make decisions of significance.

Directive 210.22 Feedback

Exempt administrative employees must:

- Primarily perform office or nonmanual work directly related to management policies or general business operations. The work must be distinguished from production or sales work and is limited to duties directly related to the running of a business and not merely the day-to-day carrying out of its affairs.
- Perform work as an administrative assistant, such as an executive's assistant who has management duties; a staff employee, such as an advisory specialist or department head; or as a special assignment employee such as a field manager.
- Spend most of the workweek performing management duties. As with exempt executives, this generally means more than 50 percent of worktime; however, other factors might support exempt status.
- Customarily and regularly exercise authority to make decisions of significance.

Professional employees must:

- Primarily perform work as professionals in either learned or artistic professions, or as teachers in an educational institution or as highly skilled computer professionals. Learned professionals, teachers and highly skilled computer professionals are those who have attained knowledge of an advanced type customarily acquired by a prolonged course of specialized intellectual instruction and study. A four-year degree may satisfy this requirement, however associate degrees do not. (See also "Computer Professionals".)
- Spend most of the workweek performing professional duties. This generally means more than 50 percent of worktime; however, other factors may be considered if less than 50 percent of the week is spent in professional work.
- Perform work that is predominantly intellectual and varied rather than routine, manual, mechanical, or physical.
- Consistently exercise discretion and independent judgment.

The Salary Test *

On November 22, 2016 a federal judge blocked implementation of the US Department of Labor rule requiring an increase of the weekly salary to \$913 a week or \$47,476 annually for FLSA subject employers. This injunction means the rule did not take effect on December 1, 2016 and returns most salary minimums to \$455 a week or \$23,660 annually.

[*IMPORTANT*] However, effective July 1, 2018, employees working within the Portland metro zone will see the minimum wage increase to \$12/hr. Employers should note that this wage increase will boost the minimum salary requirements for exempt employee classification in the Portland metro zone to \$480 a week or \$24,960 annually.

Employers should be vigilant because changes to this rule may come soon and those changes may have a retroactive application of the FLSA rule. Employers classifying employees as exempt who would not be exempt under the blocked rules might consider tracking hours of these employees in order to mitigate the risk. Check with your labor and employment attorney for specific details.

Here is the link to the Department of Labor's website on this topic.

Directive 210.22 Feedback

<https://www.doi.gov/teaturea/overtime>

The salary must be a predetermined amount that is not varied based on quantity or quality of work. Exempt employees need not be paid for weeks in which no work is performed, however the general rule requires that the employee receive the full salary for any week in which work is performed without regard to the number of hours or days worked. The general rule is subject to exceptions as follows:

1. Salary may be prorated (reduced) if an exempt employee takes a day or more off for personal reasons, other than sickness or disability (including work related accidents).
2. Salary may be reduced for absences of a day or more for sickness or disability if the reduction is made according to the employer's plan, policy or practice of providing paid sick or disability leave. For example, if an employer has a paid sick leave plan and the employee has exhausted all available paid leave under that plan, then his or her salary may be reduced by those absences of a day or more for sickness or disability.
3. If the employee performs any work during the workweek when serving on jury duty, military leave or when attending a proceeding as a witness, the exempt employee's weekly salary must be paid. However, the employer may offset any amounts received by the employee as jury or witness fees or military pay for that week.
4. Reductions in an exempt employee's salary may not be made as a disciplinary measure unless the penalty is imposed for violations of safety rules of major significance such as smoking in an explosive plant or oil refinery. However, if the employee is suspended for a full workweek, and no work is performed during that week, no salary is required.
5. Reductions for unpaid disciplinary suspensions of one or more full days for workplace infractions or workplace conduct. Suspensions must be imposed pursuant to written policy applicable to all employees.
6. An employer is not required to pay the full salary in the initial and terminal week of employment.
7. In private sector employment, the exempt employee's salary may not be reduced when an employee is absent for part of a day, unless the absence qualifies as leave taken under the federal Family and Medical Leave Act. (Special rules apply to government agencies).

Computer Professionals

In addition to the foregoing tests for professional employees, federal rules require that computer professionals must primarily perform work in one or more of the following categories to qualify for exemption:

- The application of systems analysis techniques and procedures including determination of hardware, software, or system functional specifications; or
- The design, development, documentation, analysis, creation, testing or modification of computer systems or programs; or
- The design, documentation, testing, creation or modification of computer programs related to machine operating systems.

When employees are classified as exempt computer professionals, Oregon Administrative Rules require that such employees have advanced educational degrees. However, since these duties may be directly related to management policies, and to the implementation of business operations, they may qualify as exempt administrative employees without the degrees.

Separate Exemption for Skilled Computer Technicians

In addition, both federal and state laws provide a separate exemption for employees who perform work in the previously listed

Directive 210.22 Feedback

In addition, both federal and state laws provide a separate exemption for employees who perform work in the previously listed categories, and who are paid an hourly rate of at least \$27.63 per hour. Because the state exemption was adopted using the same conditions as the FLSA exemption at 13 (a) (17), no degree is required.

Commonly Asked Questions

Q. Are employers required to track hours worked by exempt employees?

A. No, if an employee is truly exempt as a "white collar" employee, there is no need to track hours worked. However, it is permissible for employers to track hours worked for legitimate business purposes such as job costing, or benefit accruals. It is also permissible for employers to require exempt employees to be present during specified hours.

Q. Is it permissible to require exempt employees to use accrued vacation or sick leave when they are absent?

A. Yes, the Ninth Circuit Court of Appeals has decided that deductions from leave banks for absences are permitted since the words "amount" and "compensation" in the regulations refers to "cash" or "salary." Therefore, as long as the employee receives the appropriate payment in cash or salary, deductions from leave banks do not affect the exempt employee's status. However, it is essential that the exempt employee's salary is not "subject to deductions" for partial day absences. Therefore, employers should adopt policies clearly stating that the salary will not be reduced for absences of less than a full day, if the employee has no available accrued leave to access.

Q. If the employee is absent for a full day or more due to sickness or disability, and has no accrued paid leave to use, may the employer reduce the employee's salary?

A. Yes, as long as the employer has a paid leave plan that provides compensation in cases of illness or disability.

Q. Is it OK to pay extra amounts, in addition to the salary, to exempt employees?

A. Yes. Oregon regulations specify that extra amounts may be paid to exempt employees even if they are based on hourly rates. Federal regulations do not specify that extra compensation may be paid on an hourly basis, but state that bonuses, commissions, or shift amounts may be paid in addition to the guaranteed salary. Some court cases have questioned the practice of paying extra amounts on an hourly basis. Therefore, it is recommended that extra amounts be in the form of bonuses or other "lump" sums rather than "hour for hour."

Directive 210.22 Feedback

Q. Is it permissible to reduce the exempt employee's salary if the employer shuts down for part of a week due to slowdowns in orders, or for equipment failures, or for other operating requirements of the business?

A. No, the general rule requires that exempt employees be paid for the full week if any part of the week has been worked.

Q. Can an employer require an exempt employee to use accrued paid leave during a part-week shutdown?

A. An opinion letter dated November 20, 1995, issued by the U.S. Department of Labor, states that the employer may not require exempt employees to use accrued leave for absences occasioned by the employer. However, the U.S. Department of Labor has revised its enforcement policy and now relies on opinion letters issued on February 15, 1994 and April 6, 1995. The DOL's current interpretation is that an employer may require the use of paid leave, so long as the employee receives his or her full weekly salary. This means that an employee who has exhausted all paid leave must nonetheless receive his or her full weekly salary when a part-week shutdown occurs. [Click here to read the text of the above-cited DOL opinion letters.](#)

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TECHNICAL ASSISTANCE FOR EMPLOYERS

800 NE OREGON STREET, STE 1045

PORTLAND, OR 97232

971-673-0824

Q2 Contact Information (optional)

Respondent skipped this question

#7

COMPLETE

Collector: Web Link 1 (Web Link)
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Q1 Please provide feedback for this directive

This directive still is unnecessary and wastes staff time on meaningless work that does not speak to the contributions people make every day on the job- this previous public comment holds true:

- its not conducive to a modern work environment where employees are not micro-managed in 2-3 separate systems (which are easily modified to fit the 'story' a manager would want)
- Continues to foster the environment of not trusting employees who have been through a very comprehensive background to determine they are of sound enough character to work at PPB. The bureau doesn't need to advertise that the PPB still doesn't trust its internal workforce and management- the vast majority this directive who are impacted are non-rep nonsworn. and this reinforces the message that no one is to be trusted to come to work, deliver a solid work product, and represent the bureau as true leaders and professionals.
- Where non-sworn even consulted, ie a focus group or end-user group? If this is necessary the people doing this work would find a more efficient way to get at what the bureau thinks is so important (ie, SAP timesheets).

One positive- moving to a merit based management leave system is an incredible step forward. Please train command in giving performance evals for non-sworn and management leave awards, especially that its ok to give top reviews/hours awards. Some people do A+ work, and should be recognized and not punished.

Q2 Contact Information (optional)

Respondent skipped this question
